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“Le tableau législatif”:
Colonial Law in Martinican Society, ca. 1786

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**“Le tableau législatif”:
Colonial Law in Martinican Society, ca. 1786**

by

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Report

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Abstract

“Le tableau législatif”: Colonial Law in Martinican Society, ca. 1786

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The University of Texas at Austin, 2010

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Abstract: This project examines the articulation and application of colonial law in the French colony of Martinique during the eighteenth century through the work of a legal commentator and colonial magistrate, Pierre Dessalles. His compilation of Martinican laws reveals how local elites applied laws usually promulgated in France. His reliance on European political theorists illustrates the dissemination of legal knowledge across the Atlantic, while his comments and explanation of colonial law in light of Martinique’s history anchor this discussion in a local history. Thus, from Dessalles’ creole, local elite perspective, historians can perceive both the operation and ideology behind Martinican law because this document explicitly presented law (as prescription) and legalities (as practice) together.

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I. Introduction

Historians, travelers, and writers have often struggled to contextualize the Caribbean—an assortment of land fragments accompanied by a similarly fragmented history of encounters among Latin Americans, Africans, Europeans, and North Americans. In the eighteenth century, colonial residents¹ sought to understand how their life on the islands made sense in the wider scheme of imperial and American history. One such resident, Pierre-François-Régis Dessalles of Martinique, offers historians and curious readers the opportunity to probe these themes through his compilation of Martinican laws, first published in 1786 as *Annales du Conseil Souverain de la Martinique ou Tableau Historique du Gouvernement de Cette Colonie*.²

This project focuses on Martinique and Dessalles's legal writings for three reasons. First, its role as a major sugar-producing colony during this era links Martinique to Atlantic and Caribbean exchanges—a pattern that is evident throughout the *Code*. Second, its small size (roughly one quarter the size of Rhode Island) makes the scope of Martinican law more manageable than those compilations that cover wider areas, which allows me more time to focus on a range of interconnected issues contained within a

¹ I use this term throughout the paper because of term “colonist” connotes a person who has voluntarily moved from a metropolitan area to an outlying colony and settled there. However, the majority population of slaves did not choose to live in Martinique while a variety of other transient groups moved on and off the island (absentee planters, monopoly agents, sailors, etc.) making a wide application of the term “colonist” misleading.

² While the title of this work emphasizes the noun, “*Annales*,” Dessalles himself refers to the document as a legal code in his avant-propos or a “*recueil général*” or a “general collection.” Pierre-François-Régis Dessalles, *Les Annales du conseil souverain de la Martinique*, T.1 V.1, 1st ed. Bergerac: J.B. Puynesge, 1786, Re-edited and reprinted by Bernard Vonglis, (Paris: L'Harmattan, 1995), vii-viii. Thus, this paper refers to the document under examination alternately as a code, collection, or the *Annales* (not to be confused with the twentieth-century school of historical scholarship or related journal).

single document. Finally, the single author of this volume, Pierre Dessalles, offers his own opinions and discussion of Martinique's legal history in a way that ties abstract legal concepts firmly to the contingencies of life as a Martinican resident: he is an eyewitness to the laws as well as to their causes and effects in an era in which Martinique experienced the effects of both the Haitian and French Revolutions but—unlike Saint-Domingue—remained under French rule.³

Through the genre of legal history, Dessalles' volume surveyed myriad characters: from slaves to sailors, Ursuline nuns to indigenous Caribs. As explorers had produced maps of the colonies' physical topography, Dessalles presented an outline of the legal topography of Martinique during the height of Martinique's prosperity as a sugar producer and before the convulsions of the French and Haitian Revolutions. The present study thus probes Dessalles' iteration of Martinique's legal code as a means by which to examine the legislative tableau—to use his own phrasing⁴—or legal landscape of Martinican society.

While Dessalles covers a vast range of topics worthy of their own specialized analysis, this project focuses on the question of legality, or the flexible social and cultural ramifications of legal institutions and patterns as experienced by historical actors (in this

³ As it has remained, with the exception of British occupation three times: 1762-1763, 1794-1802, and 1809-1814.

⁴ The complete title of the work is *Annales du Conseil Souverain de la Martinique ou Tableau Historique du Gouvernement de Cette Colonie, Depuis son premier établissement jusqu'à nos jours* (*Annals of the Sovereign Counsel of Martinique or Historical Tableau of the Government of this Colony, From its first establishment until our time*). All translations by the author unless otherwise noted.

case, Dessalles).⁵ This idea has been articulated by Christopher Tomlins, who distinguishes between two concepts—law and legality—to provide historians with an analytical tool, legality, with which one can chip away at social and cultural patterns. He points out that law has an “enviable capacity to evade the historian’s grasp by trumping critique with timeless and self-legitimizing values—universality of application, singularity of meaning, rightness.”⁶ By contrast, “Legality...is a condition with social and cultural existence; it has specificity, its effects can be measured, its incarnations investigated.”⁷ In other words, Tomlins identifies legality as the sense in which a historical document like the *Annales* constitutes a part of Martinique’s cultural and social fabric—rather than simply expressing external, universal values.

Dessalles’ own invocation of a legislative tableau treats Martinique as a distinct site of law-making—specific enough to require its own set of laws, informed by but not identical to French metropolitan law. That is, peculiarities in Martinique’s environmental and historical landscape catalyzed modifications in the type of legal structure that was built upon it. For Dessalles, laws had a clear and integral relationship with their social

⁵ I plan to use future research projects to look at a wider scope of subjects, beyond Dessalles and other elites, in order to develop a comprehensive interrogation of colonial legalities that includes all levels of society.

⁶ Christopher L. Tomlins, “Introduction,” in Christopher L. Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America*, (Chapel Hill: Published for the Omohundro Institute of Early American History and Culture, Williamsburg, Virginia, by the University of North Carolina Press, 2001), 2.

⁷ Ibid., 2. Tomlins goes on to explain, “legalities are not produced in formal legal settings alone. They are social products, generated in the course of virtually any repetitive practice of wide acceptance within a specific local, call the result rule, custom, tradition, folkway or pastime, popular belief or protest.” 2-3.

and cultural context so his writing in the *Annales* outlined a set of laws enmeshed in practical concerns specific to their time and place:⁸ late eighteenth-century Martinique. These particularities and Dessalles' process of conceptualizing and defining Martinican law comprise the focus of this essay's analysis. Through this, he consciously operated in a world of legalities, rather than attempting some idealistic codification project. Dessalles' iteration of the Martinican legal code traced the development of major legal concepts of the colonial French Caribbean and thus gives us a concise overview of colonial law and legality as colonial elites perceived it. This civil law code⁹ actually emphasized the dynamic and pragmatic nature of colonial law rather than static legal doctrine—even at the prescriptive and theoretical level.

⁸ For a thought-provoking analysis of place in French colonial history see Gregory Mann, "Locating Colonial Histories: Between France and West Africa," *The American Historical Review* April 2005, <http://www.historycooperative.org/journals/ahr/110.2/mann.html>, Accessed 11 August 2009.

⁹ However, it is helpful to note that Dessalles did not distinguish between criminal, civil, and administrative laws in the *Annales*, though separate codes for cases prosecuted by the state (criminal), private cases arbitrated by the state (civil) and procedural laws did exist at the time.

II. Historiography

In many ways, this project relies upon the work of scholars who have tracked the development of legal systems in Europe and the colonies in the early modern era. Work on early modern France¹⁰ emphasizes law as a tool employed by all kinds of people. Historians who look at legal documents for the French Antilles have gravitated toward the question of how slavery and race played out in legal terms and in particular on origins of slave law surrounding the Code Noir (enacted in 1685) and subsequent slave reform efforts.¹¹ Sue Peabody's work¹² deals with the often-surprising ramifications of slavery—a colonial phenomenon—when it was brought to the metropole, where laws concerning slavery often forbid the practice or ignored it completely. Other studies have shown that French Caribbean residents—including slaves¹³, free colored people¹⁴, and women¹⁵ of all

¹⁰ See, for instance, Julie Hardwick, *The Practice of Patriarchy: Gender and the Politics of Household Authority in Early Modern France* (University Park: Pennsylvania State University Press, 1998) and Julie Hardwick, *Family Business: Litigation and the Political Economies of Daily Life in Early Modern France* (Oxford: Oxford University Press, 2009).

¹¹ David P. Geggus, "Slavery and Emancipation in the French Caribbean: Recent Scholarship," in *Beyond Fragmentation: Perspectives on Caribbean History*, ed. Juanita Debarros, Audra Diptee, and David Trotman (Princeton, NJ: Markus Weiner, 2006), 3-34.

¹² In particular, Sue Peabody, *"There Are No Slaves in France": The Political Culture of Race and Slavery in the Ancien Régime* (New York: Oxford University Press, 1996). See also Dwain C. Pruitt, "'The Opposition of the Law to the Law': Race, Slavery, and the Law in Nantes, 1715-1778," *French Historical Studies* 30.2 (2007): 147-174.

¹³ The literature on slave resistance is vast—covering the gamut from field slaves to urban domestic slaves to runaways (maroons). Michael Craton's *Testing the Chains: Resistance to Slavery in the British West Indies* (Ithaca, NY: Cornell University Press, 1982) is helpful for understanding the range of slave resistance in the British context, where patterns were nearly identical to the French colonies. For an overview of crucial sources and a brief history of slave resistance in the period just after the Dessalles' Code was published, see Laurent Dubois and John D. Garrigus, eds., *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents* (New York: Bedford/St. Martins, 2006).

¹⁴ Critical work on this topic has recently emphasized this demographic in Saint-Domingue, right before and during the Haitian Revolution: John D. Garrigus, *Before Haiti: Race and Citizenship in French Saint-*

status—negotiated their circumstances through a variety of legal mechanisms, though most vividly witnessed through notarial documents¹⁶. These studies thus eschew discussion of elites to perform the very valuable task of rewriting ordinary people into colonial history.

However, this project contributes to growing scholarship on colonial law and legality that emphasizes the negotiation of authority through channels of legal institutions and practices. Scholars of colonial Latin America, like Kathryn Burns,¹⁷ and North America, like Christopher Tomlins,¹⁸ have realized the importance of colonial laws in shaping individual and group behavior across all layers of society.¹⁹ Kathryn Burns' critical reading of notarial documents points out the clues that can be gleaned even from

Domingue (New York: Palgrave Macmillan, 2006) and Stewart R. King, *Blue Coat or Powdered Wig: Free People of Color in Pre-Revolutionary Saint Domingue* (Athens: University of Georgia Press, 2001). See also Dominique Rogers on free women of color: "Réussir dans un monde d'hommes : les stratégies des femmes de couleur libres du Cap-Français," *Journal of Haitian Studies*, 9.1 (Spring 2003): 40-51.

¹⁵ For the French Antilles, see Bernard Moitt, *Women and Slavery in the French Antilles, 1635-1848*, (Bloomington: Indiana University Press, 2001). Hillary M. D. Beckles has made a similar case for female resistance in Barbados: *Natural Rebels: A Social History of Enslaved Black Women in Barbados* (New Brunswick, NJ: Rutgers University Press, 1989).

¹⁶ Though historians have used other legal documents creatively: John Savage's article on Restoration-era Martinique fruitfully draws upon provostial court records to chart the ways planters' fears of slave poisoning influenced their relationship with metropolitan authorities—to whom they looked for support in prosecuting poisonings—ultimately subverting their claims for more administrative autonomy. "'Black Magic' and White Terror: Slave Poisoning and Colonial Society in Early 19th Century Martinique," *Journal of Social History* 40.3 (2007): 635-662.

¹⁷ See in particular, Kathryn Burns, "Notaries, Truth and Consequences," *American Historical Review* 110.2 (April 2005): 350-379.

¹⁸ For a helpful introduction to colonial American legal history, see Tomlins and Mann, eds., *The Many Legalities of Early America*.

¹⁹ This approach to legal history—in contrast to older legal history that focuses on institutions—is often referred to in shorthand as the "law and society" tradition.

the format of legal documents and inspires the examination of Dessalles' organization and project, in addition to his content.

Tomlins' introduction proposes a distinction between definitions for law and legalities as discussed above, while *The Many Legalities of Early America* as a whole emphasizes transnational legalities, with contributions by specialists in several fields that are grouped by theme rather than geography. Thus, while national political traditions have tended to be analyzed as vectors (having only one direction, moving from metropole to periphery), the articles in this volume highlight the multivalent movement of legal traditions across linguistic, national, and geographic boundaries—especially in the colonial setting.

Similarly, Lauren Benton's *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900*²⁰ surveys legal history on a global scale, incorporating such diverse regions as Australia and Uruguay, that encompasses both the first and second phases of European colonization.²¹ Benton's book outlines several case studies of colonial legal regimes in order to argue that colonial states came into existence via a process of negotiation and overlapping jurisdictions and legal traditions—a process she labels “legal pluralism.”²²

²⁰ Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge, UK: Cambridge University Press, 2002).

²¹ Generally understood to denote the colonization of the New World during the early modern era and the later movement to colonize Africa, India, and other parts of Asia especially at the end of the nineteenth-century.

²² This term has existed in anthropological and legal scholarship for a long time, but Benton is the most recent and notable popularizer of the term in the field of history.

It is beyond the scope of this project to examine the degree to which Martinican law reflected non-French legal traditions. However, Dessalles' writing does reflect a melding of French legal influences—both colonial and metropolitan—that encourage inquiry into the complex intellectual processes by which colonial elites responded to local conditions based on their knowledge of a variety of legal traditions. In this vein, Benton's work provides an analytical framework within which to discuss strands of legal influence. This project also intersects Atlantic scholarship,²³ which in America has grown exponentially in the last three decades as historians have sought to integrate European and colonial histories with each other as well as with less-familiar histories of indigenous Americans and Africans—a field that encompasses (and perhaps even overwhelms) Caribbean historiography. The first wave of Atlantic scholarship tended to focus on imperial power relationships or the transatlantic slave trade, though historians have begun to tackle a wide variety of Atlantic topics across themes. However, French Atlantic scholarship has only recently accelerated.²⁴ Previously, historians tended to treat French colonial regions like New France (in today's Canada) and Saint-Domingue (now Haiti) as disparate and unimportant. However, in the last decade, studies of the French Atlantic have appeared that emphasize transregional communities, such as Darrell Meadows's

²³ For a recent survey of the field, see Jack P. Greene and Philip D. Morgan, eds., *Atlantic History: A Critical Appraisal*, (New York: Oxford University Press, 2009).

²⁴ A trend that is changing even during the writing of this research. The major French journal of imperial and colonial history, *Outre-Mers*, has just published a special issue on the French Atlantic as their most recent edition. Cécile Vidal ed., "L'Atlantique français," *Outre-Mers*, Number 362-363, (2009): 7-139.

article²⁵ on familial ties and migration, Kenneth Banks's analysis²⁶ of French transatlantic communication networks, and Christopher Miller's examination²⁷ of literature and the slave trade, have attempted to narrate an integrated history of French-speakers around the Atlantic basin. Other studies—still only in dissertation or article form—have examined Francophone diasporas, such as Acadian refugees (after their 1755 expulsion from Nova Scotia)²⁸ and Saint-Dominguan refugees (post-Haitian Revolution).²⁹ These trends offer exciting new insights into the social and cultural patterns of eighteenth-century French colonial and Atlantic history.

Despite the proliferation of French Atlantic research, historians have tended to ignore legalities, a striking omission in light of perceptive work on legal negotiation in and across the British³⁰ and Spanish³¹ Atlantics. French Atlantic historians most often

²⁵ R. Darrell Meadows, "Engineering Exile: Social Networks and the French Atlantic Community, 1789-1809" *French Historical Studies*, 23.1 (Winter 2000): 67-102.

²⁶ Kenneth J. Banks, *Chasing Empire Across the Sea: Communications and the State in the French Atlantic, 1713-1763*, (Montreal: McGill-Queen's University Press, 2006).

²⁷ Christopher L. Miller, *The French Atlantic Triangle: Literature and Culture of the Slave Trade*, (Durham: Duke University Press, 2008).

²⁸ Christopher G. Hodson, "Refugees: Acadians and the social history of empire, 1755-1785," Northwestern University, 2004.

²⁹ Ashli White, "'A flood of impure lava': Saint Dominguan refugees in the United States, 1791-1820," Columbia University, 2003. Forthcoming as Ashli White, *Encountering Revolution: Haiti and the Making of the Early Republic* (Baltimore: The Johns Hopkins University Press, 2010).

³⁰ As cited above, see Tomlins et al. for work by key colonial North American scholars. Tomlins and Mann, eds. *The Many Legalities*.

³¹ Michael C. Scardaville's article surveys key questions in legal history for colonial Mexico, "(Hapsburg) Law and (Bourbon) Order: State Authority, Popular Unrest, and the Criminal Justice System in Bourbon Mexico City," *The Americas* 50, no. 4 (April 1994): 501-525; On Mexico, see especially Charles R. Cutter, *The Legal Culture of Northern New Spain, 1700-1810*, 1st ed. (Albuquerque: University of New Mexico Press, 1995); For Peru, David T. Garrett's analysis of local Inca elites is instructive, *Shadows of Empire: The Indian Nobility of Cusco, 1750-1825* (Cambridge, UK: Cambridge University Press, 2005); while

look at legal codes as fact files: dry catalogues of rules and busy work compiled by unimportant individuals, useful to the historian to the degree that they provide quantitative data or links to other sources and topics.³² Several scholars³³ cite Dessalles' iteration of the code, but few analyze it on its own terms. Rebecca Hartkopf Schloss's dissertation³⁴ on racial identity in nineteenth-century Martinique fruitfully examines the code as a document in which elites defined racial boundaries, especially those restricting whiteness. She focuses on the period after Haitian independence, during which Martinique became France's "largest and most productive sugar-producing island in the Caribbean," and thus a model for the other remaining colonies of Guadeloupe and French Guiana.³⁵ Historians like Schloss have written valuable studies that illuminate our understanding of colonial cultural history and Dessalles' topical organization makes it easy to consult his volume as a reference for a range of subjects from agriculture to religion.

Bianca Premo deals more explicitly with legalities, *Children of the Father King: Youth, Authority, & Legal Minority in Colonial Lima* (Chapel Hill: University of North Carolina Press, 2005).

³² Though recent work by Garrigus and Dubois (to name two examples) with notarial records has suggested that legal documents contain more than just statistical information. Garrigus, *Before Haiti*; Laurent Dubois, *A Colony of Citizens: Revolution & Slave Emancipation In the French Caribbean, 1787-1804* (Chapel Hill: Published for the Omohundro Institute of Early American History and Culture, Williamsburg, Virginia, by the University of North Carolina Press, 2004).

³³ Including James S. Pritchard, *In Search of Empire: The French in the Americas, 1670-1730* (Cambridge: Cambridge University Press, 2004).

³⁴ Rebecca Hartkopf Schloss, "'The distance between the color white and all others': The struggle over white identity in the French colony of Martinique, 1802-1848," Duke University, 2003. Recently published as *Sweet Liberty: The Final Days of Slavery in Martinique* (Philadelphia: University of Pennsylvania Press, 2009).

³⁵ Rebecca Hartkopf Schloss, "*The distance between the color white and all others*," 3.

However, Dessalles' discussion of colonial laws as both a historian and legal commentator raises important questions about the articulation, transfer, and negotiation of legal structures from a French to a colonial context.³⁶ Dessalles' process for writing the code works against the assumption that these laws are indicative of a static Martinican legal structure. He met research and compilation of previously enacted laws with an observation of surprise at the lack of law enforcement: an acknowledgment of the disjuncture between law (as articulated) and legality (as practiced and culturally contextualized). He thus described prescribed law and colonial history in a synthesis that includes some of his own assessment of their utility. In this way, Dessalles' legal compilation provides a compelling source that holds rich clues to Martinican legal dynamics.

³⁶ I recognize that ideas move in a variety of directions—besides from metropole to periphery or from empire to colony—but in this case Dessalles relies on explicitly European forms (though creolized ones in the sense of being modified by colonial-born residents like Dessalles himself).

III. Context

Dessalles' legal code forms a volume of the island's Sovereign Council records from a fragment of France's colonial empire, Martinique, an island that lies in the middle of the chain of Lesser Antilles, between Dominica to the north and St. Lucia to the south. The small size of the islands in the Lesser Antilles could be both an advantage—as an ideal location for extralegal trading—and a handicap, in cases where smallness meant strategic vulnerability, two themes that appear in the code as European countries vied for control of this gateway to the Americas and profitable commodity producing region.³⁷

Spain had dominated the Caribbean almost unopposed from the late fifteenth to the early seventeenth centuries. Beginning in the 1620s and 1630s, both English and French explorers and traders challenged and won several Spanish territories, catching up and in some places outpacing Spanish trade and agricultural production by the end of the seventeenth century. Like many other early colonies, Martinique was founded initially by a government-sanctioned private joint-stock company, the Compagnie des Îles d'Amérique, in 1635 (along with the island of Guadeloupe). In exchange for trading rights, the French government required the company to acquire at least four thousand

³⁷ Andrew Jackson O'Shaughnessy cites one memorable example: "In September 1778, Dominica became the first British island to fall to France during the American War... There were no casualties on either side. The twenty-five-mile distance from Martinique was so short that the French were able to conquer Dominica "before the news of the expedition could reach Admiral Barrington." Andrew Jackson O'Shaughnessy, *An Empire Divided: The American Revolution and the British Caribbean* (Philadelphia: University of Pennsylvania Press, 2000), 169.

settlers for this first Caribbean colony and to build a base from which France could expand its possessions in the Caribbean.³⁸

By the early eighteenth century, Martinique had become the model French sugar-producing colony³⁹ in competition with British islands like Barbados.⁴⁰ Prior to 1713, Martinique possessed the most mature sugar economy of the French Caribbean; thus, eighteenth-century increases in production were less noticeable.⁴¹ However, between 1717 and 1732, Martinican exports of sugar to France more than tripled,⁴² a pattern that only slightly outpaced production in the region as a whole: between 1713 and 1744 French Caribbean sugar production more than trebled.⁴³ The pattern of increasing sugar production over the eighteenth century in French Caribbean colonies began as an accelerating chain reaction that began to level out in the 1750s for Martinique (in the

³⁸ Which also included, by the end of the century, “St. Bartholomé, St. Martin, Grenada, St. Lucia, and the western part of Hispaniola which was ceded by the Spanish at the Treaty of Ryswick in 1697.” Franklin W. Knight, *The Caribbean: The Genesis of a Fragmented Nation*, 2nd ed. (New York: Oxford University Press, 1990), 51-2.

³⁹ For an overview of the sugar trade in the eighteenth century, see Robert Louis Stein, *The French Sugar Business in the Eighteenth Century* (Baton Rouge: Louisiana State University Press, 1988); For the nineteenth century, see Dale W. Tomich, *Slavery in the Circuit of Sugar: Martinique and the World Economy, 1830-1848* (Baltimore: Johns Hopkins University Press, 1990).

⁴⁰ The British colonies of Barbados and Jamaica resemble Martinique and Saint-Domingue, particularly during this early period. In both cases, the former colony was smaller and colonized earlier, but developed a thriving sugar plantation economy while the larger islands were slower to develop sugar economies, but rapidly increased production in the eighteenth century. For more on the British islands during the seventeenth century, see especially Richard S. Dunn, *Sugar and Slaves: The Rise of the Planter Class in the English West Indies, 1624-1713* (Chapel Hill: Published for the Omohundro Institute of Early American History and Culture, Williamsburg, Virginia, by the University of North Carolina Press, 2000).

⁴¹ Pritchard, *In Search of Empire*, 214.

⁴² *Ibid.*, 185.

⁴³ Wim Klooster, *Illicit Riches: Dutch Trade in the Caribbean, 1648-1795* (Leiden: KITLV Press, 1998), 92.

1780s for Saint-Domingue) and was gradually taken over by Cuban sugar production in the nineteenth century.⁴⁴

Martinique's sugar production centered on the western (leeward) side⁴⁵ of the island around the island's administrative center, Saint-Pierre, which in 1726 had surpassed all other French colonial towns to become the "largest, most cosmopolitan, unruly town in all of French America" with nearly 8,000 inhabitants (more than two and a half times the population of Quebec and Cap Français).⁴⁶ Robert Louis Stein points out that up until 1730, slave ships nearly always stopped in Martinique first upon arriving in the Caribbean (partly because of the trade winds), from which point slaves were re-traded or sent on to other colonies like Saint-Domingue. After 1730, the exponential growth of Saint-Dominguan plantations shifted demand for slaves away from Martinique.⁴⁷ Nevertheless, Martinican sugar production was still thriving in 1786, five years before the

⁴⁴ Though, as noted below, Saint-Domingue's sugar production was cut off in the late eighteenth century during the Haitian Revolution. In Saint-Domingue alone (the most dynamic colony of the eighteenth century), sugar production facilities doubled in number between 1713 and 1730, and the number of slaves more than tripled in that period. Pritchard, *In Search of Empire*, 184. For an overview of sugar production in the Caribbean from the early colonial period through the nineteenth century, see B. W. Higman, "The Sugar Revolution," *The Economic History Review* 53.2 New Series (May 2000): 213-236.

⁴⁵ Though between 1671 and 1902, production shifted to the eastern portion of the island, which has more flat terrain. Compare Paul Butel's maps of sugar factories in 1671 and 1902, *Histoire des Antilles françaises: XVIIe-XXe siècle* (Paris: Perrin, 2002), appendix.

⁴⁶ Pritchard, *In Search of Empire*, 112.

⁴⁷ Stein, *The French Sugar Business*, 32-3.

Haitian and French Revolutions⁴⁸ set off a quarter-century of warfare that would stifle sugar production and the region's dynamism.⁴⁹

To keep these thriving economic ventures in check (and to make sure they benefited the French crown), the French monarchy relied upon local elites who played a variety of roles: as entrepreneurs, local governors, planters, and merchants. Martinican administration was not built on a professional bureaucracy (as was developing in Europe), but rather based on patron-client networks and personal politics, without the “complex articulations found in a nascent bureaucracy.”⁵⁰ These local elites worked together in colonial councils, registering new royal edicts and prosecuting crimes. A royal declaration of 15 April 1679 revamped the Martinican council into a new *Conseil Souverain* that became the model of local administration and operated throughout the eighteenth century, including Dessalles' era.⁵¹ The declaration created a panel of ten counselors, six of whom were initially required to be nobles. The Conseil had the right to issue warnings for violations of colonial law, especially violations of commercial restrictions, which were meant to funnel a portion of trade profits to the French crown under the “exclusif,” though they also governed a variety of matters including the police,

⁴⁸ See Miranda Frances Spieler for an overview of revolution-era shifts in law and legality: “The Legal Structure of Colonial Rule during the French Revolution,” *William and Mary Quarterly*, 66.2 (April 2009): 365-408.

⁴⁹ Though following the loss of Saint-Domingue, Martinique became France's top sugar-producing colony.

⁵⁰ Pritchard, *In Search of Empire*, 260-1. According to Pritchard, similar administrative structures characterized France's older colony of New France, 250.

⁵¹ Butel, *Histoire des Antilles*, 58.

slaves, duels, and cabarets.⁵² However, gentlemen who had come to the Antilles were invariably officers of the sword, lacking legal knowledge, because they were so intent on making a fortune by snagging a wealthy bride and returning to France.⁵³ Thus, the typical Conseil membership shifted from nobles appointed by the king (up until around 1675) to new colonists who were more familiar with the law, drawn from big planter families who tended to send their sons to study law in France. Upon their return, these sons were given temporary posts in local government until they could take a seat on the Conseil Souverain, a pattern exemplified by Dessalles' life.⁵⁴

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid., 58-9.

IV. Pierre Dessalles & Family

Early colonists and entrepreneurs are difficult to uncover because they did not write much—“men of action, not reflection”⁵⁵—and they did not leave much behind,⁵⁶ but historians can reconstruct the lives of colonial residents who created legal documents or were recorded in them. These official records were often kept in multiple copies⁵⁷ and (as in the case of Dessalles’ *Annales*) several revised forms.⁵⁸ Further, Dessalles’ own commentary acts as a window into his personality and history, especially in the *avant-propos* but also throughout the text. Thus, the legal code published by Dessalles in 1786 offers historians both a convenient index of Martinican features during the colonial era and a personal account of Martinican legalities in which the author struggles to make sense of his environment and, specifically, its laws.

⁵⁵ Dunn, *Sugar and Slaves*, 24, though here, Dunn is referring to seventeenth-century planters, who tended to be more independent and self-sufficient than the eighteenth-century variety.

⁵⁶ Due to a variety of factors: hurricanes, the harsh Caribbean environment, and the tendency of colonists to leave their stuff (and their bodies) in Europe.

⁵⁷ For example, the notarial records that survive in French archives like the Centre des Archives d’Outre-Mer (Aix-en-Provence) are “double minutes” or copies sent by notaries to officials in France, where they were much more likely to survive than in the colonies. However, extant French Caribbean documents tend to cover the last quarter of the eighteenth century and later: my preliminary research in the notarial archives at Aix produced few leads for documents before 1777, though records tended to be plentiful for this year and later.

⁵⁸ Dessalles cites several previous attempts to compile Martinican laws in his *avant-propos*, Pierre-François-Régis Dessalles, *Les Annales du conseil souverain de la Martinique*, T.1 V.1, 1st ed. Bergerac: J.B. Puynesge, 1786, Re-edited and reprinted by Bernard Vonglis, (Paris: L’Harmattan, 1995), viii-ix, and a similar project was undertaken by Dessalles’ Martinican contemporary Médéric Moreau de Saint-Méry (1750-1819), *Loix et constitutions des colonies française de l’Amérique sous le vent*, 6 vols. (Paris: Saint Méry, 1785-1790). For a survey of Moreau de Saint-Méry, see the volume of essays edited by Dominique Taffin, ed. *Moreau de Saint-Méry ou les ambiguïtés d’un créole des Lumières* Actes du colloque organisé par les Archives départementales de la Martinique et la Société des Amis des archives et de la Recherche sur le Patrimoine culturel des Antilles, 10-11 septembre 2004. (Abbeville, France: F. Paillart, 2006).

Pierre Dessalles himself might make the subject of a fascinating Caribbean biography. Born in 1755 into a third generation of creole⁵⁹ Martinican planters⁶⁰, his life coincided with the start of an era of Anglo-French conflict that would leave France with only a few Caribbean islands and French Guiana as its American possessions, Dessalles lived through some of the most exciting years of Martinican history. By the time of his death in 1808, Martinique had changed hands between British and French authority several times, France had lost the jewel of its sugar economy—Saint-Domingue—to slave revolution, and Great Britain and the United States had abolished the slave trade (in 1808). Though recent studies have fruitfully examined planters’ lives as an entry point into broader surveys of Caribbean culture, this project eschews detailed discussion of Dessalles as planter and instead considers Dessalles as an actor in two primary roles: legal compiler and historian.

The Dessalles family had most likely moved to Martinique from Brittany in the middle of the seventeenth century, so by the time Pierre François Régis Dessalles wrote they had been creole—native colonial residents—for over a century, though the Dessalles

⁵⁹ Though this term has been much debated, here I use “creole” to denote a person of French heritage who inhabits the Antilles. Frédéric Régent points out that, though the term was originally used to distinguish African-descended individuals from Africans, whites born in the Americas latched onto the term to emphasize differences between their language and culture and Europeans’. Frédéric Régent, *La France et ses esclaves: de la colonization aux abolitions, 1620-1848* (Mesnil-sur-l’Estrée: Grasset, 2007), 340.

⁶⁰ David Geggus makes explicit comparisons between Dessalles’ son (Pierre Dieudonné) and Burnard’s Thistlewood in his review of Pierre Dessalles, *Sugar and Slavery, Family and Race: The Letters and Diary of Pierre Dessalles, Planter in Martinique, 1808-1856*, ed. Elborg Forster and Robert Forster, (Baltimore: Johns Hopkins University Press, 1996), though in this case, we have a family enterprise (rather than entrepreneurial individual like Thistlewood). Geggus also contrasts Thistlewood’s (hedonistic) and Pierre Dieudonné’s (sanctimonious) personalities. *The Hispanic American Historical Review*, 79.4 (November 1999): 755-756.

maintained some ties to France.⁶¹ The Dessalles family men tended to have two occupations: sugar planter⁶² and magistrate (*conseiller*), usually serving in the Martinican High Court (*Conseil Souverain*). Most of the family wealth was tied up in the Martinique plantations while judicial roles gave the family political clout and marked them as one of the most important local elite families⁶³.

The Dessalles were a large family of devoted Catholics, remarkably numerous and hardy for the era and place—Pierre Régis was one of eleven children.⁶⁴ Born in 1755, he gave up his claim to the family plantation, but had enough money or credit to buy two plantations of his own by 1783, when he was twenty-eight.⁶⁵ Soon after, he married Albi de Gissac from Guadeloupe (in 1784), with whom he had six children, of whom five were born in Martinique. Pierre François Régis Dessalles died 27 January 1808, aged 53, after an illness that was probably liver cancer.⁶⁶

⁶¹ Dessalles, *Sugar and Slavery, Family and Race*, 9-10.

⁶² The story of English planters in the West Indies is well known—Richard Dunn has looked at seventeenth-century English planters, Trevor Burnard has written about an eighteenth-century Jamaican overseer, to take two notable examples—but the French planters have been less well-known to English-speaking audiences until recently. The Forsters have brought one to light, Pierre Dieudonné Dessalles in Martinique (the son of this project's subject, Pierre-Régis), and John Garrigus has studied Julien Raimond, a free colored planter in Saint-Domingue. See Dunn, *Sugar and Slaves*; Trevor G. Burnard, *Mastery, Tyranny, and Desire: Thomas Thistlewood and His Slaves in the Anglo-Jamaican World* (Chapel Hill: University of North Carolina Press, 2004); Garrigus, *Before Haiti*.

⁶³ For more on the Dessalles as an elite family, especially during the nineteenth century, see Rebecca Hartkopf Schloss, *Sweet Liberty: The Final Days of Slavery in Martinique* (Philadelphia: University of Pennsylvania Press, 2009), 47 and passim.

⁶⁴ Dessalles, *Sugar and Slavery, Family and Race*, 3. Nine of the eleven children survived according to Paul Butel's Dessalles family tree. Butel, *Histoire des Antilles*, appendix.

⁶⁵ Dessalles, *Sugar and Slavery, Family and Race*, 9.

⁶⁶ Ibid. Quoted from Frémont and Elisabeth, 32.

Writing seems to have been a major family activity. The only French-born son, Pierre François Dieudonné Dessalles⁶⁷ is perhaps the best-known member of the Dessalles clan, due to the compilation and publication of his letters and diary, first in French⁶⁸ and more recently in English.⁶⁹ His letters and diary cover 1808 to 1857, though the letters only exist from 1808-1834. Pierre Dessalles—the object of this study—produced both a Martinican legal code⁷⁰ and a commentary on the French Revolution⁷¹ as it played out in the colonies. His writing expressed great concern with the world of colonial administration and his attempts to grapple with both Martinican history and events during his lifetime.

⁶⁷ Here and after, noted as Pierre Dieudonné. I refer to his father, Pierre-François-Régis Dessalles, the author of the Martinican Code and the primary subject of this research, as simply Pierre.

⁶⁸ Pierre Dessalles, *La Vie D'un Colon À La Martinique Au XIXème Siècle*, ed. Henri de Frémont and Léo Elisabeth (Courbevoie: H. de Frémont, 1980).

⁶⁹ Dessalles, *Sugar and Slavery, Family and Race*.

⁷⁰ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1.

⁷¹ Pierre-François-Régis Dessalles, *Historique Des Troubles Survenus À La Martinique Pendant La Révolution* (Fort-de-France: Société d'histoire de la Martinique, 1982).

V. Rationalization and Codification

Dessalles' writing ties into a long history of legal rationalization and codification as well as the nearly parallel development of historical writing in early modern Europe and into the Enlightenment during the eighteenth century.⁷² In Europe, early modern monarchs sought to consolidate their authority by grafting nobles and other middle elites into a rapidly expanding bureaucratic structure that required new laws as well as new methods of integrating regional systems.⁷³ This process, fueled by an increase in availability of classical and other legal texts during the Renaissance and print revolution, encouraged jurists to undertake comparative projects that attempted to synchronize legal ideas both within a geographic space (e.g. France) and across time (e.g. classical Roman law with sixteenth-century Roman law⁷⁴). During the sixteenth through eighteenth centuries, jurists like Jean Bodin, Jean Domat, and Henri François d'Aguesseau sought to find order in this messy proliferation of laws and produced comprehensive works that

⁷² For a distillation of the development of historical thinking in France during the eighteenth century, see Donald R. Kelley, "History between Research and Reason," in *Fortunes of History: Historical Inquiry from Herder to Huizinga* (New Haven: Yale University Press, 2003), 26-55.

⁷³ See especially William Beik, *Absolutism and Society in Seventeenth-Century France: State Power and Provincial Aristocracy in Languedoc* (New York: Cambridge University Press, 1985); Steve Hindle, *The State and Social Change in Early Modern England, c. 1550-1640* (Basingstoke, Hampshire: Macmillan, 2000); Richard L. Kagan, *Lawsuits and Litigants in Castile, 1500-1700* (Chapel Hill: University of North Carolina Press, 1981); Ulrike Strasser, *State of Virginity: Gender, Religion, and Politics in an Early Modern Catholic State* (Ann Arbor: University of Michigan Press, 2004).

⁷⁴ For a quick synopsis of Roman law during the early modern era, see Kathleen A. Parrow, "Prudence or Jurisprudence? Etienne Pasquier and the *Responsa Prudentium* as a Source of Law" in Anthony Grafton and J. H. M. Salmon, eds. *Historians and Ideologues: Essays in Honor of Donald R. Kelley*. (Rochester: University of Rochester Press, 2001), passim, but especially 61-2. For a particularly insightful discussion of the process by which French law was developed during this period, see Sarah Hanley, "'The Jurisprudence of the Arrêts': Marital Union, Civil Society and State Formation in France, 1550-1650," *Law and History Review*, 21.1, (Spring 2003): 1-40.

outlined the nature of state sovereignty and imperial law. Jean-Baptiste Colbert (Louis XIV's finance minister) published versions of civil and criminal procedure in the 1660s and 1670s, while law schools began to define more rigorous curricula around law specific to the French state rather than more pan-European Roman and canon law concepts.⁷⁵ Similarly, legal compilers in England (most famously, Blackstone) sought to codify and refine the common law system during the seventeenth and eighteenth centuries.⁷⁶ This well-known early modern phenomenon spilled over into European colonizing efforts, where aspiring imperialists appeared to have the opportunity to create law out of nothing—without the necessity of relying on (or competing with) historical precedent and existing law.⁷⁷ Pierre Dessalles' writing in the *Annales* expressed a similar desire: to both comprehend and articulate laws in a rational, orderly fashion in the form of a general anthology (*recueil général*).⁷⁸

However, while writers like Domat began by invoking an eternal divine order dictated by natural laws, Dessalles founded his legal treatise in Martinican history since French colonization—a mere century and a half before. In fact, Dessalles does not cite

⁷⁵ David Parker, "Sovereignty, Absolutism and the Function of the Law in Seventeenth-Century France," *Past & Present*, 122 (February 1989): 41 and passim.

⁷⁶ Holly Brewer, "Age of Reason?" in Tomlins and Mann, eds., *The Many Legalities*, 330.

⁷⁷ However, this idea has been corrected by historians like Katherine Hermes, James Brooks, Ann Marie Plane, and Sergio Serulnikov, who have pointed out the many ways in which indigenous legal patterns merged with or otherwise informed European models. For a sampling, see the section of Tomlins and Mann, eds., on intercultural encounters, in *The Many Legalities*, 119-214 and Sergio Serulnikov, "Disputed Images of Colonialism: Spanish Rule and Indian Subversion in Northern Potosí, 1777-1780," *The Hispanic American Historical Review*. 76:2 (May 1996). 189-226. For a more global perspective, see Lauren Benton, *Law and Colonial Cultures*.

⁷⁸ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, viii.

France's history in Europe except in the form of royal treaties⁷⁹ and decrees that he registers as part of the Martinican Conseil's records. For example, he included a neutrality treaty between France and England from 1686, but the treaty pertained directly to Caribbean possessions, most notably Saint-Christophe.

Given this lack of legal precedents, colonies like Martinique might be expected to have shorter and clearer legal codes than in France. To be sure, this iteration of Martinique's code is only two volumes total (including a volume of assorted edicts and documents not surveyed in this paper) compared with Jean Domat's similarly lengthy but more comprehensive *Les loix civiles dans leur ordre naturel* (1697)⁸⁰ but Dessalles repeatedly rebuts this assumption by pronouncing the multitude and chaos of colonial laws.⁸¹ The existence of several colonial law codes for the French Caribbean,⁸² and

⁷⁹ Which the French and English, bizarrely, divided into three sections for the two powers. Ibid., 292.

⁸⁰ Jean Domat, *Les loix civiles dans leur ordre naturel* (Paris: P. Aubouin, P. Emery et C. Clouzier, 1697), <http://gallica.bnf.fr/ark:/12148/bpt6k55297429>, Accessed 24 November 2009; The standard English version is Jean Domat, *The Civil Law in Its Natural Order*, trans. Luther Stearns Cushing, 2 vols. (Littleton, CO: Fred B. Rothman, 1980).

⁸¹ Though a 1793 summary of Jamaica's colonial law comes to nearly three hundred pages, implying that this surfeit of legislation was not limited to French colonies. Jamaica, *An abridgment of the Laws of Jamaica; being an alphabetical digest of all the public Acts of Assembly now in force, from the thirty-second year of King Charles II. to the thirty-second year of George III. inclusive, as published in two volumes, ...* (St. Jago de la Vega, Jamaica: Alexander Aikman, 1793), Eighteenth Century Collections Online, Accessed 30 November 2009.

⁸² M. L. E. (Médéric Louis Elie) Moreau de Saint-Méry, *Loix et constitutions des colonies françoises de l'Amérique sous le vent ...*, 6 vols. (Paris, 1784); Sylvain Lebeau, ed., *Recueil des lois relatives à la marine et aux colonies*, vol. 1 (Paris: Impr. de la République, 1787), <http://gallica2.bnf.fr/ark:/12148/bpt6k492355>, Accessed 25 November 2009.

Martinique⁸³ in particular, confirms Dessalles' point—especially for the late eighteenth century in which Dessalles wrote and published the *Annales*.

Dessalles opens the *Annales du Conseil Souverain de la Martinique* with a striking articulation of this colonial reality: “There is perhaps no country in the universe where there exist more laws than in the colonies.”⁸⁴ This remark is interesting for two reasons. First, Caribbean colonies were notorious for piracy, smuggling, and other extralegal practices that seem at odds with the proliferation of many laws. Second, the tiny population and land mass of French Caribbean colonies⁸⁵ would seem to minimize the number of laws necessary to govern the area. In fact, Martinique's entire area (1,128 km² or 435.52 sq mi) pales in comparison with the current area occupied by Haiti (27,750 km² or 10,714.34 sq mi).⁸⁶ This disjuncture between a colonial resident's comments and two of the most often assumed facts about Caribbean islands raises an important question for historians: why would colonies need so much law?

The sheer variety of means by which laws could be created was one factor behind the proliferation colonial law. During the Ancien Régime, colonial councils were required to enforce a variety of royal decrees, codified laws, customary rules, and special

⁸³ Jacques Petit de Viéville, ed., *Code de la Martinique* (Saint-Pierre, Martinique: P. Richard, 1767), <http://gallica.bnf.fr/ark:/12148/bpt6k113036j>, Accessed 25 November 2009; M. Durand-Molard, *Code de la Martinique*, 5 vols., Nouvelle édition. (Saint-Pierre, Martinique: Impr. de J.-B. Thounens, fils, 1807).

⁸⁴ “Il n'est peut-être point de pays dans l'univers où il existe plus de Loix que dans les Colonies.” Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, vii.

⁸⁵ In 1786, French Caribbean colonies included Saint-Domingue, Guadeloupe, Martinique, Grenada, Guyane, and Saint Lucia.

⁸⁶ To put this into perspective, Rhode Island is 4,002 km² or 1,545.18 sq mi—almost four times the size of Martinique. All numbers retrieved from Wikipedia.

colonial orders. In particular, the French crown wanted to keep the cash flowing from its island possessions, especially its lucrative sugar plantations.⁸⁷ This explains Dessalles' propensity to cut and paste treaties and whole sections from colonial law into the *Annales*, as the Conseil made these royal laws official in Martinique by registering them in the council registers, a major source for Dessalles' work.⁸⁸

This mass of disorganized edicts streaming from a variety of royal organizations created another problem repeatedly lamented by Dessalles: popular ignorance of what constituted colonial law.⁸⁹ To combat this problem Dessalles had to sort through the complex layers of (sometimes) contradictory laws. He rearranged these laws chronologically⁹⁰, in which a list of different laws promulgated on a particular subject gives the reader a snapshot of changes in colonial policy over time. For example, the section on religious orders⁹¹ in Martinique begins with the establishment of missionaries to serve colonial parishes as a requirement for the Compagnie des Indes to receive royal approval for the colony's foundation (presumably in 1635, though Dessalles did not specify). He then explained that by the 1660s, new parishes were established to account

⁸⁷ It kept a close eye on its Caribbean assets by prescribing and enforcing a multitude of economic protection laws, known collectively as the monopoly (Dessalles' most common usage) or "l'Exclusif."

⁸⁸ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, ix.

⁸⁹ He states this most plainly in the avant-propos, but repeats this point throughout. Ibid.

⁹⁰ Ibid. Rather than continue a previous council member's work, he decides to begin a new project: "ma première idée fut de continuer l'ouvrage de M. Assier; j'ai cru depuis qu'il seroit plus agréable au public dans la forme historique que je le présente ici."

⁹¹ Ibid., 37-41.

for changing demographics. Jesuits arrived in the 1640s⁹², as the first official religious order, having made separate arrangements with the French king for permission, where they remained until the order was expelled in 1763. Dessalles concluded with an assessment of the Dominicans' incomes after a squabble with the royal equivalent of a payroll office in 1757. Thus, the *Annales* are less an assertion of what the laws should be and more an attempt to define and constrain Martinican society in a historically contextualized legal form. To put it another way, though Dessalles desired a comprehensive, fool-proof legal code, his objective was more pragmatic than idealistic. Rather, this compilation was Dessalles' solution to a problem: the lack of knowledge (even among magistrates) about what constituted Martinican law. As he admitted, "I have been surprised at the quantity of laws that have been ignored."⁹³

However, Dessalles recognized the limitations of this project, noting that he lacked the time to engage the interrelations of laws that cover similar topics. Dessalles cited previous attempts to create a single Martinican legal code,⁹⁴ but acknowledged that none of them were completed or comprehensive.⁹⁵ Thus, while one might expect this

⁹² Dessalles' lists the date as 1649, but Sue Peabody's dating of 1642 is probably more accurate. She gives a fascinating account of Catholic, and especially Jesuit, missions to the Antilles in Sue Peabody, "'A Dangerous Zeal': Catholic Missions to Slaves in the French Antilles, 1635-1800," *French Historical Studies* 25, no. 1 (Winter 2002): 53-90. For the seventeenth century and religious ideas about slavery, consult Sue Peabody, "'A Nation Born to Slavery': Missionaries and Racial Discourse in Seventeenth-Century French Antilles," *Journal of Social History* 38, no. 1 (2004): 113-127.

⁹³ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, ix.

⁹⁴ Ibid.

⁹⁵ Dessalles appears to have been unaware of or ambivalent toward the 1767 *Code de la Martinique*, edited by Jacques Petit de Viéville, as he never cited it. Unlike Dessalles' code, Viéville's version is organized thematically, distinguishing among administrative, religious, military, and other types of legislation.

legal code—at nearly five hundred pages—to provide an exhaustive reference tool for legal practitioners and participants, Dessalles envisioned a handbook or primer that will give readers a *rough* guide to colonial law and its background. There were many colonial laws indeed!

This pragmatic document may thus be categorized as part of an early modern genre of legal handbooks in addition to its status as written law. Sarah Hanley has shown that ordinary Europeans likewise distributed legal knowledge through a variety of informal legal guides and dictionaries, a pattern that correlates with the sharp rise in printed material during the early modern period.⁹⁶ Instead, Similarly, Dessalles intended the *Annales* to disseminate legal expertise to Martinican administrators so that they could more accurately administer the law. In this process, the *Annales* articulated the contours of Martinican history in which Dessalles synthesized a multitude of colonial laws into sections that trace the development on law on particular topics from Martinique’s early colonial history to the 1780s.

However, like Dessalles (though perhaps more bitterly), Viéville deplored the difficulty of organizing a code from the existing chaotic multitude. Viéville, *Code de la Martinique*.

⁹⁶ Sarah Hanley, “The Pursuit of Legal Knowledge and the Genesis of Civil Society in Early Modern France,” in *Historians and Ideologues: Essays in Honor of Donald R. Kelley*, ed. Anthony Grafton and J. H. M. Salmon (Rochester, NY: University of Rochester Press, 2001), 71-86.

VI. Colonial Governance

Two key questions motivated Dessalles' analysis in the *Annales*. First, to what degree did colonial residents know about the law's prescription? Second, to what extent did they follow the law's dictates in practice? That is, an initial question existed of whether laws promulgated in France about the colonies were safely transmitted to colonial administrators, while a second (and to Dessalles, more important) question remained regarding the degree to which those administrators actually carried out those orders. These laws emanated from the king in France thus and had to be communicated to colonial subjects through the medium of colonial administrators like Dessalles.

One case study displays the particular difficulty of reconciling royal laws with colonial practice: a section aptly headed by the question, "The Laws of the Realm, published since 1681, must they be enforced in the Colonies?"⁹⁷ This question appears almost philosophical: Dessalles appears to have called nearly all of colonial law into question, as most of the laws he quoted come from 1681 or later and the precise terms of Martinique's colonial relationship with France⁹⁸ were often fuzzy. However, Dessalles actually raised a pressing and practical question here, based on a conflict between colonial and metropolitan lawyers. In the period before and during which Dessalles wrote the *Annales*

⁹⁷ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 216.

⁹⁸ As illustrated, for instance, by the predilection of seventeenth-century ministers to delegate colonial administration to private companies like the Compagnie des Indes, though in both the case of Martinique and in New France, France eventually revoked these company charters in the eighteenth-century, leaving many unanswered questions about these colonies' precise political status within France. This messy political situation was further exacerbated by nearly continual wars between different European powers over colonial possessions, especially during the eighteenth century.

(he did not specify), the attorneys of the king's council⁹⁹ had tried to introduce a new requirement for all royal subjects to follow royal laws—"indistinctly."¹⁰⁰ The new requirement had not been enacted in 1786, but had been appealed and thus appeared to still be a debatable issue. Under the terms of this system, local governments would have to enforce new edicts whether or not they had been registered in council records.

Dessalles—having consulted conseil records for so much of his account—strongly opposed this measure as it seemed to exclude local governors from the political process. In particular, Dessalles feared that judges would be forced to rule arbitrarily without a clear articulation of laws written in council registers as a referent. Most alarming, however, Dessalles recognized an internal contradiction in the requirement: local governors could not enforce laws of which they did not know.¹⁰¹

This issue did not hinge purely on the fact that Martinican lawyers, four thousand miles from France, could not possibly stay *au courant* with the latest decree from Versailles. Much of this question hinged on a legal term, "notoriety," which meant not simply fame or common knowledge, but a general public awareness¹⁰² of the facts of an event or issue. Attorneys of the king's council asserted that this well-known principle made a law efficacious. As Dessalles put it, "the notoriety of a law renders it compulsory

⁹⁹ A distinct set of officers (with some landholding rights) who were responsible for maintaining the monopoly of instructions and pleas. There were 170 of them in 1673 and 70 members in 1738. Bernard Vonglis, *Les Annales Du Conseil Souverain De La Martinique: Introduction, sources, bibliographies et notes*, vol. 1 (Paris: L'Harmattan, 1995), 225.

¹⁰⁰ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 216.

¹⁰¹ *Ibid.*, 216-7.

¹⁰² Sarah Hanley discusses the increase in judicial publicity (particularly of case law) in Hanley, "'The Jurisprudence of the Arrêts.'"

[obligatoire].”¹⁰³ Similarly, the 1762 edition of the *Dictionnaire de l’Académie française*¹⁰⁴ cited the example of a prisoner being arrested on the basis of the notoriety (or widespread awareness) of his or her crime. In a more specific sense, acts of notoriety referred to notarized documents that provided written proof the veracity of information contained in the document. The principle of notoriety, then, made a written document into an active political tool.

Still, publication of a document in France—even with the legal blessing of notoriety—did not ensure that colonial residents knew when they were breaking a law. Thus, Dessalles acidly remarked that the concept of notoriety was easy to destroy: laws published in France had notoriety because they were produced in the place where they had sovereignty. Where the law had not been published (Martinique, for instance), it could not possibly have jurisdiction.¹⁰⁵ Dessalles felt like Martinique’s history proved his point. The king had twice forbidden the Conseil Souverain to admit any law that had not been sent from the Departement of the Marine,¹⁰⁶ who thus had peculiar jurisdiction over the colonies. By this ruling, the colonies only had to follow laws that pertained specifically to them and had been registered by the Conseil. Yet Dessalles was not

¹⁰³ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 216-7.

¹⁰⁴ “Notoriété” in *Dictionnaire de l’Académie française*, 4th Edition (1762),” in *Dictionnaires d’autrefois, ARTFL*, <http://artflx.uchicago.edu/cgi-bin/dicos/pubdico1look.pl?strippedhw=notori%C3%A9t%C3%A9>. Accessed 29 November 2009.

¹⁰⁵ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 216-7.

¹⁰⁶ A point that raises a perplexing question: who else might have been sending letters purporting to contain important new laws?

entirely satisfied by this minimization of colonial law. Instead, he wondered why the colonies did not receive the benefits of new and better laws.¹⁰⁷

These dissatisfactions with colonial laws indicate a strong conviction by Dessalles that he knew what the laws should be—a striking assertion of local control against royal prerogatives despite Dessalles’ frequent invocations of the king’s beneficence. A renewed request against the attorneys of the king’s council, filed in 1777, articulated this colonial concern about colonial interests and did receive some royal attention. However, Dessalles argued that the issues raised by the question of notoriety were still essential to think about in 1786 because they related to key questions about the public welfare and constitution of the colonies—questions that Dessalles wanted to answer for the colonial interest.

This section illustrates the frequent clash of colonial concerns¹⁰⁸ and royal demands, especially over the discharge of laws. Dessalles, ever the colonial advocate, had set up his analysis on the basis of the colonies’ enduring value to the French realm¹⁰⁹ and Martinique’s identity as a constituent of that realm. He also argued that the colonies “appear destined to be ruled by the same Laws”¹¹⁰ To Dessalles, then, Martinique’s

¹⁰⁷ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 219.

¹⁰⁸ Though Dessalles was hardly the only creole to critique colonial governance and advocate more autonomy. See, for example, Malick Ghachem’s discussion of Hilliard d’Auberteuil, a contemporary of Dessalles and legal writer from Saint-Domingue. Malick Walid Ghachem, “Sovereignty and slavery in the age of revolution: Haitian variations on a metropolitan theme” (Stanford University, 2002), 191 and *passim*.

¹⁰⁹ Notice that he does not refer to a state or other entity—even though Dessalles wrote in 1786, he still thought very much in terms of an absolutist monarchy.

¹¹⁰ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 216.

economic value and political status as a French colony the trajectory of Martinique's history pointed toward increasing consolidation within a French Atlantic realm and thus emphasized legislative consistency across French domains as an important means to that consolidation.

It also underscored a hierarchy of authority in which the Conseil Souverain had to acquiesce to the king's demands. Law emanated from the metropole, and specifically the king, so the Conseil Souverain did not act as a form of local representative government. Dessalles' monarchical language is a crucial point to notice here because it illuminates the balance of colonial and royal political power. While historians continue to theorize and debate the character of France's overseas possessions in terms of imperialism and colonialism,¹¹¹ Dessalles wrote exclusively in terms of France as a kingdom and Martinique as its colony. Within this case, Dessalles often refers to the king as the primary actor, minimizing the conseil's role as a moderating force on the king's apparently unilateral legislative power. Furthermore, language cited by Dessalles over the history of Martinique implies that this set-up had existed (with few modifications) throughout the colony's history.¹¹²

However, royal authority was not accepted universally or without qualification.

The end of this section contains a laudatory description of the chief colonial

¹¹¹ See especially, Alice L. Conklin and Julia Clancy-Smith, "Introduction: Writing Colonial Histories," *French Historical Studies* 27.3 (Summer 2004): 497-505.

¹¹² However, this language begins to change at the end of the 1780s and makes several mutations across the revolutionary era as indicated by changes in the form of notarial documents from Jacmel, Saint-Domingue between 1792 and 1802. Compare, for example, Drian, Register 537.17, 10 June 1792 with (Pierre) Theuret. Register 1638.13, 28 May 1802. Notariat, Dépôt des Papiers Publics des Colonies, Fonds Ministériels, État des Fonds, Le Centre des archives d'outre-mer, Aix-en-Provence.

administrator, the intendant general, for his love for the colonies—a notable recognition of a more local layer of political authority.¹¹³ Thus, local elites like Dessalles pushed back against the monarchy's demands when they believed they did not have enough information to comply or if they did found contradictions in the responsibilities they were required to carry out.

¹¹³ To my knowledge, this question has not yet been addressed by French colonial scholars for the Americas. However, both Spanish and British colonial historians have fruitfully investigated perceptions of monarchy in a colonial context, especially the ways in which colonial residents articulated political protests. In Mexico, for example, protesters tended to criticize more familiar viceroys, while invoking the putatively pure king as a symbol of good government. Alejandro Cañeque, *The King's Living Image: The Culture and Politics of Viceregal Power in Colonial Mexico* (New York, NY: Routledge, 2004); Brendan McConville, *The King's Three Faces: The Rise & Fall of Royal America, 1688-1776* (Chapel Hill: Published for the Omohundro Institute of Early American History and Culture, Williamsburg, Virginia, by the University of North Carolina Press, 2006).

VII. Historical Method

Dessalles' historical method reinforced this process of legal discussion and criticism, following a consistent pattern of description and analysis that complemented the detailed legal expertise he issued to readers wanting to know the nature and provisions of colonial law. Dessalles' opinions most often stemmed from a combination of personal experience and reading of prominent French intellectuals (like Rousseau and Montesquieu) with Martinique's legal history on the topic. In a section regarding torture, Dessalles summarized Martinican applications of the law and then applied what he had read about reasonable ways to deal with confessions with his own experience in the courtroom. This example thus illustrates Dessalles' consistent synthesis of case studies with wider ideas drawn from French law and theory.

Dessalles' thought process, as articulated in this example, demonstrates four components. First, Dessalles outlined the earliest example of a particular law in Martinique's history, usually from the 1670s or 1680s when the majority of colonial law appears to have been written. "La Question" referred to torture used to determine a person's innocence in a criminal case¹¹⁴. Conseillers had originally registered a royal edict outlining the legal prescription for torture on 10 December 1674—laws that applied across French jurisdiction. Dessalles cited the law's existence in their criminal code¹¹⁵,

¹¹⁴ Also known as judicial torture. Dessalles described a specific type of torture in which an individual was stretched out on a rack when discussing "la question," but it could refer to any specific torture method used to extract a confession. Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 148.

¹¹⁵ An important point to notice here is that Dessalles does not separate civil and criminal codes in the *Annales*. Rather, he collates laws from a variety of sources.

pointing out that several judges had prescribed “la Question,” probably within his own lifetime. Having established the punishment’s historical trajectory, Dessalles summarized the common uses of the law.

Second, Dessalles assessed the degree to which a law actually worked. Dessalles argued that “la Question” or torture was an absurd (“*ridicule*”)¹¹⁶ practice, because the guilty person was often the most astute at avoiding the truth and resisting torture while an innocent would crack under the stress and admit to a crime. In this case, Dessalles thought that guilty parties were too conniving, and innocent parties too weak, for judges to accurately gauge a person’s culpability with this method of torture.

Third, Dessalles cited other legal writers (usually from the French metropole) to back up his opinions.¹¹⁷ To prove his point that torturing accused criminals was pointless, Dessalles cited Montesquieu obliquely—“the Author of the Spirit of the Laws”¹¹⁸—who had written against torture as a trait of despotic governments and a tool to incite fear. Montesquieu had also argued that torture went against natural laws: “I hear the voice of nature who cries against me.”¹¹⁹ To Dessalles, then, torture not only failed to produce useful testimony, but it also violated an ideal order in which well-organized and clearly articulated laws promoted freedom rather than coercion. Dessalles’ reference to

¹¹⁶ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 148.

¹¹⁷ Though an interesting question here is the degree to which Dessalles follows Montesquieu et al. and to what degree does he cite these prestigious sources to reinforce his own claim as a legal expert.

¹¹⁸ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 149.

¹¹⁹ *Ibid.*, 149.

Montesquieu thus indicates his concern for principles and ideals despite his determination to produce a useful manual of legal practices.

In this vein, Dessalles' final points explained changes in the law over time, showing how these modifications did or did not solve problems raised by the first iteration. The policy of "la Question" was eventually abolished by royal decree in 1781¹²⁰, a move that prompted Dessalles to laud the king, in whose empire "we have the happiness of living today" and whose abolition of this kind of torture established his "love and his mercy [*clémence*]." ¹²¹ This final statement makes clear Dessalles' conception of law and legality: that law as articulated did not always account for quirks in the courtroom (like a recalcitrant criminal) so modifications in the law had to be made over time by beneficent rulers.

This example also relates to a previous question about who enacted colonial laws: in this case, the Conseil initially received a reprimand (*rémontrance*) from the Procureur-Général that applied to all French jurisdictions, implying local and regional jurisdiction. However, the application and abolition of this punishment by royal decree indicates that many French laws were enacted and enforced across French jurisdictions without reference to colonial status. Thus, while colonial Martinique may have had more laws

¹²⁰ This pattern of decreasing support for torture matches (though perhaps with a bit of a lag) the pattern in Europe. Julius Ruff notes that the frequency of torture in judicial cases decreased consistently during the early modern period in Europe. Julius Ruff, *Violence in Early Modern Europe, 1500-1800*, (Cambridge: Cambridge University Press, 2001), 95. For more detailed analysis of torture in early modern France, see work by Lisa Silverman, who shows how changes in cultural and legal attitudes contributed to the end of judicial torture by the late 1780s. Lisa Silverman, *Tortured Subjects: Pain, Truth, and the Body in Early Modern France* (Chicago: University of Chicago Press, 2001).

¹²¹ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 149.

than anywhere else, a large proportion of these laws were copied straight from French edicts.

Dessalles argued for the significance of his project based for two primary reasons. First, Dessalles equated good laws with freedom. Dessalles consciously followed earlier compilers and philosophers in articulating the purpose of the law. In his introduction, he remarked that, “One is only free by the Laws, a modern Author has said; and this reflection is very true.”¹²² This statement paraphrased Jean-Jacques Rousseau from *The Social Contract*,¹²³ but also tied to Dessalles’ epigraph from Cicero: “We are slaves to the laws, in order that we may be free.”¹²⁴ Thus, in this single statement Dessalles marked a three-step intellectual trajectory: from the classical era to the Enlightenment and, finally, to Dessalles’ own Caribbean colonial outpost. By invoking a range of sources—recent and from antiquity—Dessalles tied his own analysis of Martinican laws and their efficacy into a wider literature of political philosophy and history. This concept links to Dessalles’ earlier citation of Montesquieu, in which Montesquieu condemned the use of torture as violating the laws of nature. This point also illuminates Dessalles’ insistence that the colonies know and enforce colonial laws: without clearly codified law, one could not know how to comply with the realm’s order and thus would violate laws unknowingly. By Dessalles’ understanding, this confusion would lead to disorder and arbitrary

¹²² Ibid.

¹²³ Jean-Jacques Rousseau, *Du contrat social ou Principes du droit politique* (Amsterdam: M.-M. Rey, 1762).

¹²⁴ Vonglis, *Introduction, sources, bibliographie et notes*, 47; The quote from Cicero is included as an epigraph: “Servi sumus Legum, ut aliquando liberi esse possemus,” or, “We are slaves to the laws, in order that we may be free,” Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, frontispiece.

government, which would necessarily become coercive based on the whims of the judge or governor who carried out the laws.

This focus on the law as a discrete entity—rather than the king himself—illustrates an important shift during the eighteenth century away from political authority embodied in the king toward political authority in the form of the law itself. While Dessalles recognized the king’s power to make edicts, his narrative emphasizes law as the chief political entity. In fact, the laws (though mutable) give continuity to the *Annales* as they are the only consistent theme across Martinican history: a nearly eternal substance that Dessalles and others could look to as a source for equitable governance, or as he puts it, “freedom.”

Within this intellectual framework, Dessalles promoted Martinique as a crucial part of the French realm. On the opening page of the *Annales*, Dessalles had emphasized Martinique’s natural resources (despite its profusion of venomous snakes).¹²⁵ In the previously discussed section on notoriety, for example, Dessalles began his argument with a statement that the colonies possessed a unique value to the French kingdom, thus giving the colonies a right to the “advantages which are enjoyed by the other Provinces of France.”¹²⁶ The need for legal codification ran parallel with the need for colonial integration because both would produce efficient and orderly government.

¹²⁵ Dessalles, *Les Annales Du Conseil Souverain De La Martinique*, vol. 1, 1.

¹²⁶ *Ibid.*, 216.

VIII. Comparison with Long

Comparisons between Dessalles and other Caribbean legal writers highlight Dessalles's peculiar attention to legal details. Edward Long, a well-known English commentator, attempted to describe a cross-section of Jamaican society in his *History of Jamaica*. In this work, Long often cited Jamaican laws, but he wrote as an eyewitness to Jamaican society as a whole in the vein of a travel commentary. Dessalles, on the other hand, wrote about Martinique solely through the lens of law (ordonnances, arrêts, etc.) and legal practice (actions of council members, enforcement). Both writers surveyed many of the same topics and wrote about them using legal sources as evidence. However, Dessalles' *Annales* exhibited a peculiar spin on this popular genre: writing a detailed history from a solely legal point of view.

Where commentators like Long wanted to elaborate on social and scientific patterns, Dessalles zeroed in on law as the key means of understanding Martinican society. For example, Long synthesized part of Jamaican slave laws—that he refers to as the “code noir”—in his account of Jamaica's history, published in 1774.¹²⁷ Like Dessalles, he quoted excerpts of the slave code¹²⁸ and commented on the efficacy and enforcement of these laws. Long did not address law alone, but rather surveyed Jamaica from a variety of standpoints: geography and agriculture to take two examples. Long also

¹²⁷ Edward Long, *The history of Jamaica. Or, general survey of the antient and modern state of that island: with reflections on its situation, settlements, inhabitants...*, vol. 2, 3 vols. (London: T. Lowndes, 1774), <http://galenet.galegroup.com.ezproxy.lib.utexas.edu/servlet/ECCO>. Accessed 1 December 2009. The section on Jamaica's slave laws begins on page 485.

¹²⁸ Long cites slave laws from as early as 1696, eleven years after the promulgation of France's *Code Noir*, from which Dessalles quotes extensively.

included descriptions of other Caribbean peculiarities, like a long discussion of sugar and its medicinal uses.¹²⁹ Thus, where Long analyzed a range of Caribbean phenomena—scientific, legal—for the descriptive interest of his readers, Dessalles emphasized a much more peculiar kind of knowledge: local legal expertise, melded with knowledge of French royal jurisdiction and informed by an ample awareness of Martinican history. Both Dessalles and Long fit into a wide literature of scientific¹³⁰ and legal writing that sought to synthesize, articulate, and rationalize new knowledge about the Americas in the eighteenth century. This knowledge circulated across the Atlantic in patterns that break stereotypes about European to American transmission. Long’s observations traveled back to England and circulated there while Dessalles listed many appeals and exchanges between Martinican and metropolitan administrators. However, Dessalles’ work demonstrates less Sue Peabody’s argument¹³¹ that colonial situations changed colonial laws in the metropole (as in the case of slavery) than that Atlantic exchanges of knowledge had specific directions in a local context. Dessalles relied upon royal ordinances and proclamations that arrived from France, but tailored them to fit local conditions and, with other colonial magistrates, pushed back against royal authority when it did not provide suitable solutions to colonial problems. Thus, the *Annales* usefully

¹²⁹ Long, *The history of Jamaica. Or, general survey of the antient and modern state of that island*, vol. 2, 548-9.

¹³⁰ For one important study, see Jorge Cañizares-Esguerra, *How to Write the History of the New World: Histories, Epistemologies, and Identities in the Eighteenth-Century Atlantic World* (Stanford, CA: Stanford University Press, 2001).

¹³¹ Peabody, “*There Are No Slaves in France.*”

anchor discussions about colonial knowledge to a discrete and dynamic local context populated by individuals like Pierre Dessalles.

IX. Conclusion

The “tableau législatif” sketched by Pierre Dessalles captured a set of snapshots of Martinican law and society in which a pattern emerged (pushed by Dessalles himself) of an increasingly refined political system, in which colonial laws often complemented metropolitan laws but addressed the peculiarities of colonial life. Published in 1786, Dessalles’s work appeared in the midst of a large literature promoting codification that had articulated similar goals for two centuries. However, the long trend of early modern European codification projects reached an apex two decades later in 1804, with the publication of Napoleon’s *Code Civil*,¹³² a project that standardized the many different customs and codes of French law into a single form, and achieved the kind of unified legal system that Dessalles hoped Martinique could share with France.¹³³ However, Pierre Dessalles’ iteration of French colonial law in the *Annales*, written at the end of the Ancien Régime (a mere three years before the calling of the Estates General and dissolution of the monarchy), offers historians the rare chance to read legal history from a first-person perspective up to the end of this crucial period. While many historians have recently examined the legal changes that accompanied the convulsions of the

¹³² Jean-Louis Halpérin, *The French Civil Code*, trans. Tony Weir, (London: UCL Press, 2006).

¹³³ Though Dessalles did not waste the intervening years. Rather, he wrote a compilation of correspondence, letters, and commentary about the revolution as experienced in Martinique. Dessalles, *Historique Des Troubles*.

revolutionary period¹³⁴ immediately after 1786, Dessalles presented a history of Martinique during the Ancien Régime.

Where other legal sources filter the voices of colonial residents through intermediaries like notaries and court clerks, Dessalles' first-person narrative is a relatively transparent source¹³⁵ from which to begin to build a history of eighteenth-century legalities in the Atlantic world. Thus, from Dessalles' creole, local elite perspective, historians can perceive both the operation and ideology behind Martinican law because this document explicitly presented law (as prescription) and legalities (as practice) together.

Like early modern legal writing, which emphasized grand narratives about the laws of nature, historical writing up through the eighteenth century tended to chronicle the exploits of notable political and military leaders. This trend also correlated with rulers' increasing desire to present a comprehensive narrative of their state's history and national identity. Thus, Charles-Jean-François Hénault's 1749 *Nouvel abrégé chronologique de l'histoire de France*¹³⁶ began with Clovis and the Franks in the fifth century and tracked a litany of Dagoberts, Henris, and Louises through the end of Louis XIV's reign. In his analytical essay at the end of this chronicle, ("Remarques Particulières"), Hénault made an argument for history as crucial to the practice of law. He

¹³⁴ Spieler, "The Legal Structure of Colonial Rule."

¹³⁵ Though Kathryn Burns and Sergio Serulnikov have pointed out this assumption is sometimes unwarranted. Burns, "Notaries, Truth, and Consequences"; Serulnikov, "Disputed Images of Colonialism."

¹³⁶ Charles-Jean-François Hénault, *Nouvel abrégé chronologique de l'histoire de France* (Paris: Prault père, 1749), <http://gallica2.bnf.fr/ark:/12148/bpt6k56063559>.

posed a series of rhetorical questions about how law was standardized and where citizens (his word) could go to resolve contradictions. His answer? Pay attention to the men who made the first laws.¹³⁷

Dessalles would have agreed with this sentiment, having written the *Annales* with the purpose of educating fellow magistrates about the background and content of colonial laws. Both Hénault and Dessalles wrote to explain the political structures of their time, whether the French nation-state as a whole or just one piece of a scattered French empire, and both saw law as crucial to maintaining and defining these structures. However, in comparison with Hénault, Dessalles's writing stands in greater relief as a unique source on eighteenth-century law and history. Dessalles went a step further than traditional chronicles by prescribing solutions to ineffective laws in light of colonial legal history. To Dessalles, history and law were neither static nor inexorable forces, but rather negotiable phenomena contingent upon local conditions and universal principles articulated by writers like Montesquieu.

Recent work on remarkable Atlantic individuals has begun to break the stereotype of the typical colonial resident as either a black chattel slave or a white master. Now, historians have begun to recognize complex island societies populated by non-elite white slave overseers,¹³⁸ enslaved healers,¹³⁹ mixed race political activists,¹⁴⁰ and now, legal

¹³⁷ Ibid., 628.

¹³⁸ Burnard, *Mastery, Tyranny, and Desire*.

¹³⁹ Karol K. Weaver, *Medical Revolutionaries: The Enslaved Healers of Eighteenth-Century Saint Domingue* (Urbana: University of Illinois Press, 2006).

¹⁴⁰ E.g. Julien Raimond in Saint-Domingue, Garrigus, *Before Haiti*.

experts like Dessalles who were facile in both colonial administration and wider intellectual debates. For Atlantic scholarship that looks at the exchanges across vast geographic areas, Dessalles introduces a new kind of go-between¹⁴¹ or social mediator:¹⁴² a local legal expert. Dessalles synthesized local conditions (including how the laws worked, under what conditions they were ineffective) with European intellectual heritage. This pattern illustrates the transfer of local and global knowledge, akin to the epistemological processes undertaken by practitioners of science during this era who gathered new information in the New World that they synthesized with knowledge they brought with them from the Old World.

Historians have recently begun to map out everyday legal negotiations witnessed by notaries and minor court officials. Older institutional histories have documented the intellectual transitions analyzed and worked out by early modern elites. This research examines the often-unexplored terrain of local elites, who belong neither at Versailles nor in the notary's étude but rather in colonial council meetings and courtrooms. In this sphere, administrators like Dessalles grappled with the eternal challenge of reconciling ideas and practices. Among the many types of go-betweens, then, the works of local legal experts like Dessalles are crucial subjects of investigation because they were responsible for carrying out royal demands while simultaneously keeping local interests in mind.

¹⁴¹ A term usefully analyzed by Alida C. Metcalf, *Go-Betweens and the Colonization of Brazil, 1500-1600*, 1st ed. (Austin: University of Texas Press, 2005).

¹⁴² William B. Taylor, "Between Global Process and Local Knowledge: An Inquiry into Early Latin American Social History, 1500-1900," in *Reliving the Past: The Worlds of Social History*, ed. Olivier Zunz (Chapel Hill: University of North Carolina Press, 1985).

They thus offer historians the possibility of understanding key questions about imperial and colonial power and the yet crudely-known structures of colonial administration in the Atlantic world in the simple form of legislative tableaux.

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